

Marshall (G) Rich? Reynolds
TRUTH FOR THE SEEKERS;

715

OR

A FAIR AND FULL STATEMENT OF THE

F A C T S

WHICH GAVE RISE TO THE

Imprisonment of the Quakers

NOW IN

YORK CASTLE.

LONDON:

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1797.

[PRICE SIX-PENCE.]

IN THE EXCHEQUER.

George Markham, D.D. Vicar of Carleton in
the West-Riding of Yorkshire } PLAINTIFF.

Ben. King, William Wormald, Jos. Wilkin-
son, Hen. King, and Others } DEFENDANTS.



TRUTH FOR THE SEEKERS.

AFTER the long continuance of the case now to be reported, in a court of equity, and the severe scrutiny it had there undergone, I should not have imagined it necessary to render it more public, had not the losing party thought proper to issue a variety of statements of it, containing the grossest falsehoods; falsehoods calculated apparently for the purpose of throwing disgrace both on me and the ecclesiastical establishment; but which, nevertheless, seem lately to have been very well received by persons wishing to be thought friendly to the church.

I stand therefore, in this appeal, on the ground of self-defence—it is indeed on this ground that I have stood from the beginning of this painful business. If injustice, aggravated by a strange mixture of obstinacy and chicane, may be considered as an attack, or aggression, I am, in fact, not the persecutor, but the persecuted party.

As to the nature of the claim in contest, TITHES, no man disapproves, no man detests it more than I do. I have on this subject declared my sentiments, on all occasions in conversation, and at great length in writing. It is a claim injurious to the agricultural, the best interests of the country. It creates and keeps alive perpetual animosities between parties whose duty it is to live together in habits of mutual beneficence and affection. It reflects discredit, and produces dissent and opposition to our religious institutions. It degrades the clergy in collecting it. And it does not answer its design, when collected. The amount of tithes, with all the usual odium affixed to them, as now collected and appropriated throughout England, does not furnish one *fifth* part of a rational maintenance for a useful parochial clergy.

But all these points demand the consideration of the legislature. I cannot control them. It remains only to the established clergy to receive the established subsistence*. And it belongs to our courts of justice to see that they *do* receive it. How far the requisite protection of distributive justice has fallen to my share, will be seen from the following enumeration of particulars.

Upon a presentation from the dean and chapter of Christ Church, Oxford, I, as a student of that society, and in the ordinary course, was presented to the vicarage of Carleton in Craven, in the year 1779, then worth about £92 a year, almost solely resulting from its glebe, in succession to Henry Tenant, a poor, easy, indolent old man, void, as well of the knowledge of what was due to him, as of the necessary spirit to demand it. This gentleman had been the incumbent near fifty years, and, being possessed of another more valuable living, and a good private property, without family or *onus* of any kind, could afford to resign himself to his natural sluggishness.

It appeared from this vicar's books that the Quakers, of whom there are many in this parish, had been in arrears to him for the few little tithe-payments which he was accustomed to receive from the rest of the parishioners, for ten, fifteen, twenty, and from some near thirty years, at a time.

Finding the parish in this wretched state, but also sensible of the general odium resulting to the clergy from a rigid requisition of their full rights, after pointing out the great extent of these rights in a parish where scarcely any rectorial tithes were produced, and shewing myself to be entitled to at least three shillings and sixpence in the pound of the rentals, I offered to take in full satisfaction the odd sixpence. The answer was, the constant answer in all such cases, "We will give nothing more than your predecessor obtained; if you think yourself entitled to more, get it how you can."

* I am now preparing for the press a large work, which goes very fully into all these considerations.

After all pacific endeavours had failed ; after the affected aid of the country-justices had become, as was intended, abortive ; after I had been most contemptuously trifled with more than four years, I found myself driven to the necessity of filing a bill in equity. And I was the more induced to take this step, as I had discovered good reasons for concluding that none of the pretended parochial moduses, set up against the vicarial claims, were supportable.

I filed my bill in the Exchequer. The object of it was to recover all vicarial tithes of any value, throughout the parish, without regard to the religious tenets of any persons. There were six of the principal land-owners and occupiers included in this bill ; two of whom (Benj. King and William Wormall) *affirmed* themselves to be Quakers.

It was near six years after the bill was filed, and the tenth of my incumbency, before I could bring this cause to a hearing. It was heard on the fourth of May, 1789 ; but, not being able to obtain the judgment of the court, and being well informed that, however favourable the decree might be to me, the rest of the Quakers, notwithstanding their pretences to the contrary, would pay nothing without compulsion, on the 13th of the same month I filed another bill against them, to prevent as much as possible the control of the statute of limitations. And it is well that I did so, both on account of the intolerable length of time through which judgment was delayed, and the inducement they would have obtained to have set up other moduses in lieu of those not yet overturned.

The Defendants obtained a very unusual length of time to answer, viz. to the 23d of October ; and, by *private* application, further time to the following term : when, without any *notice* to me, and consequently unopposed on my part, they addressed the court for a *month longer*, which was granted upon a declaration, through the medium of their counsel Mr. Plomer, that there was a compromise of the first cause on foot ; the termination of which would be decisive of their conduct.

This plea was at that period a direct falsehood: all such offers from me had been long since scouted, which was probably unknown to Mr. Plomer; however, such was their plea. These very Quakers, who now urge their religious tenets in bar to *all* tithe-payment, obtained peculiar favour from a court of equity upon this pledge of *obedience* to the decision of such court, whenever such decision should be made known to them !!

Notwithstanding two causes were thus dependant, involving the vicar's subsistence and the very serious interests of a whole parish, it was on the 7th of February 1791, and *not before*, that the court gave judgment in the first cause, setting aside all the pretended parochial moduses.

As soon as possible, after obtaining this decree, I returned to the parish, from which I had been driven, for the express and sole purpose of effecting a compromise of both suits, and obtaining a general reconciliation with the parishioners. To accomplish this, I called several meetings of them, and at length obtained an agreement with a great majority of the proprietors and farmers of lands, much to our mutual satisfaction.

In consequence of this agreement, some of the *Quakers* themselves, and several of their landlords for others, who at the commencement of the first suit had entered into a *bond* to this effect, paid their assessed share of the law-costs, though they all refused to make their apportioned acknowledgment for the tithe-arrear, which I had voluntarily reduced to half the sum agreed to be paid to me in future.

Having thus accommodated matters with the great body of the parishioners, and the *Quakers* remaining obstinately deaf to every overture and solicitation, I was obliged, in support of uniform justice, to proceed against them at law. After great additional expence incurred through their refusal of every proffered condition, when we once more came before the court, these very men adopted every contemptible quibble, trick, evasion, and delay, that could be devised for them; and, at last, had even the assurance to contend most pertinaciously for a
title

title to the benefits of the general agreement, which they had always rejected !!

In order to avoid the trouble and enormous expence of examining witnesses under a commission of accounts, I accepted the Defendants' own accounts of both quantities and values of the arrears of tithes for fifteen years past, although I could have produced a vast deal of evidence in proof that some of them had actually *received* more than twice as much for many of their titheable matters as they would admit them to have been worth.

At length, after the most arduous, though unavailing, opposition, even to the general rules of the court, the whole dispute was decided—the *quantum* of debt and costs was ascertained, and I expected the final decree of the court to be obeyed. The Defendants thought proper to bid defiance to this decree, and for such their contempt of court, were attached and sent across the country to York Castle, but at *my expence*; a fruitless expence of thirty-seven pounds and one shilling.

Here they have lain to the present period, not resigned and patient as they pretend, but abounding in clamour and abuse of the measures they compelled me to persevere in, to do myself what the court calls *justice*.

It can not, surely! be supposed that their imprisonment is any gratification to me; and it certainly will not be supposed that a court of equity would in any case suffer its punishments to be perverted to the purposes of private resentment. I have repeatedly moved the court against it. To the reader's astonishment, I add, these men of peace, these men so self-resigned to suffer wrong, have opposed such motions, preferring, as we must conclude, the confinement of their bodies to the surrender of their effects!!!

“Every punishment, which does not arise from absolute necessity,” says Montesquieu, “is tyrannical.”—Imprisonment, in this case, is not founded on any necessity. Every one of these persons, prior to their imprisonment, possessed funds sufficient to have satisfied offended justice; and it was the duty of the law to have obtained that satisfaction.

After a great variety of attempts, both secret and open, both direct and oblique, sometimes to interest the public in their behalf, at others to obtain the intereference of my friends, for the purpose of relieving them from the just and necessary grasp of the law, they induced their society to force their case upon the consideration of Parliament. It was accordingly first put into the hands of Mr. Wigley, by the *Friends* of Worcester, and by him transferred to the abler disposal of Mr. Sergeant Adair, who, though indeed a man of abilities, made but a pitiful figure upon this occasion*.

We must ask the supporters of this bill what meritorious acts of patriotism the Quakers, and these Defendants in particular, have performed, that they should be thought entitled to call upon the legislature to free them from confinement without a resignation of their property? What pretensions have they to demand so partial an interposition in their favour? Upon what do they found their distinction of this from the common cases?

Had the authors of this attempt introduced it from pure philanthropy, and on no other ground, and the legislature been disposed to pass a *general* insolvent bill to discharge the Defendants in a mode that is not unusual, though not friendly to acts of insolvency, though of opinion with the admirable author of the *Idler* †, that, by such "easy dissolution of debts, fraud is left without punishment, and imprudence without awe," I should have expressed no degree of objection, notwithstanding the wrongs that they have done me, in withholding my subsistence for *nineteen* years, and putting me to a most oppressive expence in the necessary endeavours to recover it.

This is indeed a case that calls for the consideration of the legislature, but not upon the grounds to which Mr. Adair wished to limit it. To render property seizable prior to a seizure of the person, is indisputably

* See Parliamentary Register for the month of February 1797.

† No. 22.

right; but it is not right to confine this to the case of Quakers, and still less to give such law a retroactive effect upon the present case. Let the courts of equity enforce obedience to their decrees for the payment of money by execution against goods and estates, or the person of the debtor, in the same manner as satisfaction is obtained for a judgment at law, instead of the present circuitous, expensive, and ineffectual mode of service of decree, attachment, and sequestration. This, and an insolvent bill, would fully answer the design of Mr. Adair's motion, and would at the same time bestow upon the country a great public good.

But, besides this, there is very much wanted a general bill, to amend the laws of proceedings in courts of equity and ecclesiastical jurisdiction. Such proceedings should be much compressed and curtailed; the time allowed in practice for carrying suits through those courts, particularly in the Master's offices, should be greatly shortened, and the party recovering should be authorized to obtain the satisfaction decreed, by levying as well the costs of execution, as the original debt and costs upon the estates, goods, or, under certain circumstances, person of the debtor.

I shall now proceed to state the general pleas urged against tithes by the Quakers.

In disputes between individuals, it has long been the decided judgment of the society that its members should not sue each other at law, but end their differences by speedy and impartial arbitration, agreeable to rules laid down*. But though in this case I wished to refer the suit to the decision of the first cause, in which the bill and answer were the same, and proposed to stay proceedings, if they would rest all matters in dispute upon that event, they absolutely refused such engagement, and thereby compelled me to proceed at law.

Their tenets inculcate submission to the laws in all cases wherein *conscience* is not violated. But they hold that, as Christ's kingdom is not of this world, it is not

* See a small pamphlet lately published by the Quakers.

the business of the civil magistrate to interfere in matters of religion; but merely to maintain the external peace and good order of the community*.

They found all ecclesiastical ministry upon the influence of the Holy Spirit, which, say they, is not at our command, or to be procured by study, but is the free gift of God to his *chosen* and *devoted* servants. Hence arises their testimony against preaching for hire, and in contradiction to Christ's positive command, "freely ye have received, freely give," (Matt. x. 8.) and hence their *conscientious* refusal to support such ministry by tithes or other means †.

But why drop the ordinance here? After "freely ye have received, freely give," the text proceeds, "Provide neither gold, nor silver, nor brass, in your purses; nor scrip for your journey, neither two coats, neither shoes, nor yet staves; for the *workman is worthy of his meat*."

But, "to Christ alone," say they, "we give the title of the word of God, and not to the scriptures ‡." Yet scripture texts are quoted as sufficient authority whereon to found all their peculiarities.

The same scriptures command—"Let every soul be subject to the higher powers; for there is no power but of God: the powers that be are ordained of God. Wherefore ye must needs be subject, not only for wrath, but also for *conscience* sake. For, for this cause pay ye tribute also; for they are God's ministers, attending continually upon this very thing. Render therefore to all their dues; tribute to whom tribute is due; custom to whom custom, &c." Rom. ch. xiii.

When scripture coincides with their own fantastic ideas, it is irresistible; whenever it opposes their caprice, its power is but secondary, and must give way to the pleas of *conscience*.

Scripture also demands of them to love their neighbour as themselves; a tenet which they boast to have made peculiarly their own. But how do they express

* See a small pamphlet lately published by the Quakers.

† Ibid.

‡ Ibid.

this benevolence, while withholding that subsistence which they know to be his sole support? How do they manifest their obedience to this precept, knowing that the same legislature which demands the payment of tithes, has denied to the clergy all other means of maintenance?

The plea of *conscience* is factitious. Ben. King, one of these Quakers but just now taken in execution, leased, and himself collected, the great tithes of his own township for several years. The society having heard of this charge against him, have now affected to disown him. But he still *affirms* himself to be a *Friend*.

Their plea of *conscience* is not adhered to. They pay tithes by collusion in every part of the kingdom: they have heretofore paid them thus in the parish in question: moreover, many of these defendants have recently, separately, and *secretly*, made overtures to me in this case, which I have uniformly resisted; declaring a determination to listen to nothing but open and public treaty.

But, were their plea of *conscience* far better founded than it is here shown to be, it could have little room for operation in this case. The payment of tithes from the landed tenantry is most easily obviated. Let them be paid in their rentals to their landlord, and the latter become responsible to the parish-priest. It is thus that the stipends are paid to the established church of Scotland.

It must not be forgotten that the law of tithes was established long before the society of *Seekers* had any existence. It was not adopted in times of intolerance, but had prevailed as the universal law of the land for centuries prior to the birth of George Fox. The Quakers have set up themselves against law, and not the law been established for the suppression of Quakers.

Having thus given some account of the general arguments on the subject in question, I proceed to notice the principal pleas peculiar to the present case.

Among other plausibilities which these defendants have pressed upon public consideration, they have urged that their debts were, unless in a few instances, individually such as fell within the powers of the acts of 7 and 8 Will.

Will. 3. chap. 34. and Geo. I. 2. chap. 6; and therefore that I might have recovered them in a summary way before two justices. To say nothing of the magistrates not being friendly to the business, whatever may have since appeared, this was not apparent in the outset. And though, after all my exertions, I recover less than 10l. of some of them, through the medium of the master's offices, I appeal to every man of experience in such cases, whether I herein obtain *half* my due? I pledge myself, if it shall hereafter be necessary, to demonstrate, that, under the various "existing circumstances" of the case, the payment of the sums for which these men are now imprisoned, would not discharge one *fourth* part of what the laws of my country stand engaged to afford me.

At other times they admit that an attempt was made to obtain some of the tithes in question at the quarter-sessions, but add, that the complaint went off before the magistrates on the ground of the complainant's charging too much for his subtracted tithes: an assertion both futile and false upon the very face of it; because the value is to be settled by the justices. The fact was, the magistrates evaded the complaint *in toto*, on account of a pretended informality in the service of the summonses. Against this I remonstrated, particularly with the late Lord Effingham and Mr. Zouch, two of those justices, pointing out the consequences to the defendants, in case I was compelled to bring them into a superior court.—To this they gave no answer. I then proceeded to demand that they should manifest the cause of their rejection of my complaint, by inflicting a punishment upon their own officer, the constable, whose duty it was to have served their precepts according to the rules of law. Here again they shuffled, and would give no direct reply.

I say then, the ground of complaint was not gone into: but, if it had been canvassed, it is in proof that the intended defence was not, as is now asserted, a surcharge upon the articles in question. The defendants have since pleaded various parochial *modus*es in bar to the vicar's tithes in kind; a mode of defence which is, in law, a direct

rect and positive prohibition upon the authority of the magistrates.

This sect most hypocritically pretends that it would ill become them "to go to law, as the manner of some is, but rather to suffer wrong." I maintain that in the present instance, they have voluntarily rushed into law; that they have adopted, for the purpose of obviating my demands, means the most despicable and immoral. They accuse me of litigiously extending the proceedings; of accumulating upon them unnecessary expences *: while they themselves put in *separate* answers † to a single bill, though their cases were one and the same, scouted every suggestion of compromise, and delayed every step in its progress. And how they can meet the charge of the grossest and foulest *perjuries* in the following, among other instances, I do not comprehend. They have given in attested answers to my bill at different times, of a direct contrary tendency. They have sworn to (*alias affirmed*) a barren *cow-modus*, which they knew to have no shadow of existence, and which they never meant to support. They denied upon oath (*or affirmation*) all knowledge of a *combination* to oppose the vicar, though in conjunction with the great body of the parishioners, some of them have by compromise, since, paid me law-costs in their own names, and others in the names of their landlords!!!

Nor are the vile misrepresentations of the Quakers themselves, the only insults I have received on this occasion. It was not enough to have been kept from my property so many years; to recover, at last, not even a nominal half of what was justly due to me; to receive no interest for so large a share of my subsistence so long withheld; to be saddled with monstrous extra costs; but even in the attempt to obtain the common costs of a suit, in which the defendants had no defence to make, it re-

* They are hardy enough to accuse me of oppression. They should be informed that my lenity stands demonstrated. It was in my power to have transported them under the Lord's act, for their refusal to assign their effects.

† Ben. King and W. Wormall did so.

mained for me to be *personally insulted in a court of equity*, and to run the gauntlet of the foul tongues of venal declaimers.

Conscious, as it should seem, of the injustice they were supporting, the practitioners in the court of exchequer, on this occasion, resorted to rancour as a substitute for reason, forgetful of that just remark, that abusing the accuser is but a sorry way of defending the accused.

Among these liberal men of law, I shall at present confine myself to the conduct of two, Mr. Richard Richards, and Mr. Francis Burton. The first is known to owe his present rank in life entirely to ecclesiastical patronage; holds no less than (I believe) three offices in ecclesiastical departments; daily consumes the bread of the church; and yet, not content with all the common phrases of forensic abuse, could adopt the most contemptible stuff in wanton dishonour of a man who had surely never injured him, and whose station in the church was entitled to his respect. Among many degrading terms used by this man, and much depreciation of the clerical character, we find the following—"If defendants are Quakers, the plaintiff can be no *Christian*, but must be one of the greatest *Jews* that ever lived." It rests with the unprejudiced public to determine who betrayed most of the *Jew*? I, in demanding costs, incurred by the illegal obstinacy of his clients, in my opinion very able to pay them; or Mr. Richards, in pocketing large fees from men he then declared insolvent, under promise to defend a point he knew to be indefensible!!!

His learned brother of the craft, Mr. Francis Burton, forgetful of the fundamental contract which every member assented to upon his entrance into society—to submit himself in all instances to the directions of the legislature; persevered, even after defence had ceased to be available, in defending these Quakers in a positive refusal of obedience to those national ordinances without acquiescence in which society can not be supported.

Perceiving his legal attempts to have no effect upon the court, he proceeds to reproach another for his firm adherence to those laws of which he himself is an official protector!

protector ! While he himself participates both the *legislative* and *executive* powers of the state (how *constitutionally*, demands consideration), he loads with calumny a man in whom he sees nothing but a sturdy appeal to the laws by which he is to subsist ; a man merely employed in the just and necessary support of the patronage of that society, under whose eleemosynary roof, Mr. Burton, with him, was many years sheltered ; at whose beneficent board they were many years fed together.

Yet this man, at the very moment he was insulting a character, whose situation demands public confidence and esteem, calls himself a church-and-king's man, a supporter of order, of the laws, and of religion : of *religion*, whose well-being is inseparably connected with the estimation of its teachers. Yes, this gentleman is a senator, a *loyal* senator, a conscientious defender of the British constitution, of which the church establishment is, as our senators assure us, a most essential branch.

In short *, the insolence of invective, and brutality of reproach, the gross falsehood of infamous assertion, and irrelevance of petulant garrulity, employed by him on this occasion, were such as his friends had heretofore thought him incapable of : and all this most wholly unprovoked, when I was not present, and when nothing had been urged by my counsel but a common motion of course.

These sons of virtue and veracity, most feelingly alive to the purity of justice, most disinterestedly zealous in support of *good* government, could now plead the poverty of the defendants, their absolute incapacity of payment ; forgetting that, if they were suddenly become so poor, they themselves, and their fraternity, must have impoverished them. They had not all along been thought too poor to pay *their* enormous fees, though half that amount would long since have discharged my debt.

It is recommended to Messrs. Burton and Richards

* In consequence of my calling upon Mr. Burton for an explanation of his conduct on this occasion, and some pitiful apologies he then made, I now forbear to press this point so far as I otherwise should have done.

to peruse the 105th paper of the *Babler*, and ever to hold in remembrance Mr. Addison's excellent observation *, that "Resolution in an assassin is, in all reason, full as laudable as knowledge and wisdom exercised in the defence of an ill cause."

But I forgive and forget the scurrilities of hired calumny, when I reflect on the following letter, addressed to me, subsequently to Mr. Adair's legislative investigation of the subject, by a young man, I am told, of promising parts, at the bar, but whose ample subsistence is drawn from the church,—a man whose paternal grandfather and mine were brothers, and who would, I must have hoped, on that *slender* consideration, have addressed me as a relation; to which I might add certain family particulars (unknown perhaps to Mr. Markham, and on which, therefore, I shall not dwell at present), which must ever entitle me to his affectionate regards. His letter, originating I know not how, bears not the least reference to any such idea, implies not the least friendship or confidence, but is merely and perfectly official—I therefore answer it by an appeal to the public.

THE LETTER.

Reverend Sir,

IN consequence of an application to his majesty (a) on the behalf of the Quakers who are now confined in York Castle at your suit, I have been desired by a person of high rank in the law to write to you upon the subject.

Several lawyers of eminence have been spoken to on this matter, and there seems to be but one opinion (b) amongst them, that in the present state of ferment, the case as presented (attested by a magistrate) is capable of being so employed as to produce much public mischief.—It is known, for certain, that it is

the decided intention of persons high in office, that if these Quakers are not liberated without such extraordinary means, a special act of insolvency will be passed in their favour (c).—It is the common opinion not of your friends only, but of all those who are friends to public tranquillity, that you ought to prevent this by an act of your own (d), and pursue such means as may immediately produce their release—this method it is thought will be most creditable for you and useful to the public.—An answer from you, inclosed to my father, will much oblige,

Dear Sir,

Your obedient humble servant,

O. MARKHAM,

Chancellor of the Diocese of York.

Lincoln's-inn, May 15, 1797.

(a) “An application to his Majesty on behalf of the Quakers confined.”—An application to his Majesty! His Majesty, I must rest assured, has not yet forgot his coronation-oath, in which he pledged himself to “preserve to the clergy of this realm and to the churches committed to their charge, all such rights and privileges as by law do or shall appertain unto them or any of them.” But, if I am to suppose that the Monarch could be unmindful of this special compact, I can hardly be induced to believe that he would in these times attempt to suspend the regular operation of the laws.

(b) “Several lawyers of eminence entertain but one opinion.”—True; and that opinion they very fully expressed in the House of Commons, upon the late motion of Mr. Adair—every man of them who could obtain a hearing, even Mr. Burton, whose consistency I mean not to defend, expressing the most unqualified sentiments in my favour—and I know my very old friend the Attorney-General, who could not catch the Speaker's eye, was desirous of confirming the same opinion.

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(c) “It

(c) "It is the intention of persons high in office that a special act of insolvency shall be passed in favour of these Quakers."—The public is very well aware, from what it has witnessed in the last three or four years, that the *persons high in office* are highly capable of so extraordinary a measure—"what privilege, what right, what security, has not been already violated *?" But I am persuaded they will not adopt it, for this sole reason—a special act of insolvency would not merely be a partial measure of the most rank oppression, but would not safely answer even their own purpose, which is not to relinquish the right, but merely the demand of decimation, in this single instance. The consequences of such an act would be no less than a general annihilation of the tithe-claim, and consequently of the most useful part of the ecclesiastical establishment. If the Quakers in one parish were to obtain such indulgence, all Quakers would be justified in demanding the same. And if Quakers, why not all other Dissenters? Or, further, why not the people at large? Will it be contended that it is right to hold out such preference and partiality to the opponents and violators of our national institutions, while they, who obey the laws and submit to the necessary imposts, are to be saddled with accumulated burthens? Is this the way that Britons evince their boasted affection for the *church* of England?—I will ask one more question—By the adoption of this power, would not the whole property of the state be at the mercy of the crown?

The imprisonment of men in such cases is not, as is commonly imagined, an act of private satisfaction to the creditor, but of *public punishment*, for injustice in contracting the debt, and for roguish obstinacy in withholding their property from the claim of the creditor. These Quakers are pursued with legal rigour as *criminals*. Their case is that of the late Benjamin Pope, a case not indeed very honourable to executive justice, who

* Mr. Fox's Speech on Mr. Grey's Motion for Parliamentary Reform.—May 26, 1797.

died in the *Fleet*, after an imprisonment of eleven years and three months. Many years prior to his imprisonment, he was known to be worth a *plumb*. He was cast in ten thousand pounds damages for an usurious practice in a money transaction with Sir Alexander Leith. He had always declared that he would die in prison rather than pay the debt. He did die in prison. His wife enjoys his immense property! Who is the man that will defend such absurdity as rational law? But the absurdity rests with the legislature, while the suffering creditor is entitled to our pity.

(*d*) "It is the common opinion of all those who are friends to *public tranquillity*, that you ought to prevent this by by an act of your own."—This part of the epistle is penned in a studied obscurity of language, which I am little accustomed to. I am a plain man, and wish every man to speak to me with plainness. The purport seems to be, that, after risking all that I had, or hoped for in this world, in the prosecution of this suit; after having suffered the most distressing anxiety during so long a period; after combating, indeed with a barren success, the most determined obstinacy; after having fought this good fight, having employed all the best years of life for the benefit of the church, surely not to my own emolument, as, in tithe-cases, victory bestows no recompence;—when, at last, even law bids me to look for some return, some compensation, "*a person of high rank in the law*" demands of me a total remission of debt and costs, and this for the sake of *public tranquillity*!

Tranquillity! Is there then any other mode by which the public tranquillity is better secured than by justice? Is it better secured by disobedience than by obedience to the laws? Either it is, or it is not: if it is, the law, which it is a virtue to violate, ought to be repealed; but, while it exists, ought like every other law to be carried into execution; agreeably to the maxim, that it is better to have defective and bad laws regularly and impartially executed, than good laws now executed, now suspended. In the first case, the individual knows the rule

By which he is to square his actions, which implies a degree of liberty: in the second, he is subjected to all the iniquities of the most capricious tyranny. When the public safety or advantage requires a sacrifice from any party in the state, such sacrifice, according to the laws of England, is compensated by the public treasury. —Nay, even when government use every endeavour to protect individual property, yet, if they fail of success, they compensate the loss which they could not obviate. Thus the American Loyalists have received large sums, or from year to year receive pensions, for the losses sustained by the revolution.

Again, if it be in the power of those who carry on the executive government, instead of enforcing an appeal to the laws relating to property, to defeat those laws by an insolvent act, we have no certain security of property. All passes into the hands of those who, with the breath of their mouth, or a stroke of their pen, can quash the best founded claims of the most lenient and long suffering creditor; and, cancelling his costs as well as his claims, compel him to change places with an insolent and triumphant debtor.

But, supposing, not granting, that a conjuncture might arise, in which it might either suit the dignity of justice, or be subservient to the true interests of Great Britain, to sacrifice an individual, or one order of men, to the state; is it with attacking a poor individual clergyman, or the parochial clergy of the church of England, that the legislature is to set out in this career of political improvement? Are there no immense estates to provoke ideas of resumption? Are there no extravagant salaries of office? no sinecure places? no governors of provinces, not yet reduced? none of countries we have been forced to abandon*? Are the tithe-laws greater nuisances than the game-laws? Is more regard to be had to the diversion of the squire

* The Viceroy of Corsica (it is said) still enjoys his annuity: and there is at present in England a judge for St. Domingo, with a salary of 2500l. per annum.

than to the subsistence of the minister of religion *?— I must repeat, that I am very far from defending the tithe-laws; this only I say, let these laws be respected until others are substituted in their room.

Let it be further observed, that this is not my cause only, but that of the whole church of England: nor that only of the whole church, but of every community and class, or order of men, in the nation. If the right and privileges of one order be violated, what security remains for those of others? In proportion to the progress of such a spirit of outrage, men cease to trust to the laws and constitution, and repose their confidence, either in a servile submission and adulation of men in power on the one hand, or in factious combination on the other. How far such experiments may be hazarded with impunity in the present times, I leave to the judgment of the legislature.

In another point of view, "*public tranquillity*," desirable as it is, may, like other valuable things, be purchased at a price too dear. In most of the great empires of the world, all is order and tranquillity, silence and peace,—purchased by the extinction of every generous sentiment of the human heart, and the sacrifice of every thing honourable in the human character: may my country never be *curst* with such *tranquillity*. But sure I am, whatever may be the qualities, or whatever the price of this article, it belongs not to me to pay for it.

If men high in the law, and men high in the church, are ashamed of the facts or afraid of the consequences of this case, let them show their sense of insulted jus-

* The following is among the cases recorded by Mr. Grant, in his valuable publication, entitled, "The Progress and Practice of a Modern Attorney," p. 320. A farmer had the misfortune to kill a hare on his own ground: the lord of the manor, instead of being contented with the punishment of levying the fine of five pounds, which he might have done before any justice of peace, proceeded against him by action. The farmer was taken in execution for debt and costs, amounting to the enormous sum of one hundred and forty pounds, and thrown into prison, where he lay upwards of eleven years.

tice; let them demonstrate the earnestness of their desire to preserve the peace of the country, not by laying demands on others, but by doing somewhat themselves. I am in a profession, of which these very men are the guardians of the loaves and fishes.—Let them remunerate me for so great a sacrifice, and do as they please with the honest Quakers. But they must not suppose that I am to be cajoled into such an offering by the phrase "*high authority*," whether of church or law. I have fully experienced the ingratitude of the church, and few men have more reason to deprecate the kind services of law. Had I failed in my first great tithe-cause, I am now well convinced, that these *high authorities* would not have interfered to have saved me from the jaws of a jail. Was it ever heard that these high authorities are disposed to refund the produce of their vast stipends for the last nineteen years, as a proper means of supporting the peace of society? Yet they have the modesty, not merely to demand, but to threaten compulsion of this surrender upon a poor country vicar, who has spent every guinea that he could muster in asserting their claim to public obedience.

Mr. Markham, upon whom I called, on the 19th of June last, for an explanation of his letter, acknowledged that the interference he had thus employed, did not belong to him as *Chancellor of York*, though written solely in that character; but apologized with an assertion that he acted only under the influence of others. Again—when pressed upon the question—whether he thought the position tenable—that it is incumbent upon the individual to surrender his rights to the imaginary tranquillity of the nation?—He declared himself unwilling to undertake its vindication, but pleaded that it was the suggestion of *high authority*.—Let such high authority stand forth and defend this doctrine so partial and oppressive.

The security of individuals in their legal possessions is the principal end as well as the first article in the social compact, and policy no more than principle will ever admit the least violation of it.—It is the cement of society,

society, that pervading spirit which connects its members, inspires its various relations, and maintains the order and subordination of each part to the whole. How far a gross outrage upon this principle will tend to *public tranquillity* remains to be demonstrated by *high authorities*.

The only high authorities, acknowledged by me, are the *laws*—to them have I appealed, and by them will I stand or fall.

From the period of my entering into sacred orders to the present moment, I have scarcely had any other pleasures or pain, concern or satisfaction, than what related to the rights and interests of a defrauded and impoverished church; which, indeed, are also those of the state and the nation: and on this object the whole of my income has been expended. If I have with patience and alacrity, and a zeal which no private interest or mean pursuit could inspire, sacrificed ease, and the means of vulgar enjoyment—I hope to be credited when I declare that farther preferment in the church is to me, in the present stage of my life, and state of my health, an object of much indifference. Yet I may be permitted to say, that to connive at, and to encourage infringements on the clerical rights, on the part of any man, or set of men, is, to nourish in the breasts of all the people an idea that the claims of the clergy are unjust, and themselves impostors—yet I may be permitted to say that it would not, perhaps, be more than might be naturally and justly expected, if they who have it in their power were to make up to me the losses I have sustained in maintenance of the common cause; that it might not be unseemly or unwise in the church to bestow some public mark of approbation on one who has evinced so much sincerity and constancy in her service; and by that public testimony to counteract and dispel the calumnies of uninformed, interested, and perhaps malignant persons, in which his unwearied efforts in the cause and interests of the church have involved him.

Tranquillity, friends, a little study, a clear con-

science, and an independent mind, have ever appeared, as they still appear to me, a more sure and plentiful source of satisfaction and comfort than pre-eminence in either fortune or station. Had I thought otherwise, opportunities of preferment would not have been wanting. But if I cannot obtain countenance and favour by keeping and improving the talents entrusted to my charge, I shall never court them either by adulation and mean submission to men in power on the one hand, nor by a compliance with popular prejudices on the other.

" Free leave have others by such means to shine,

" I scorn this practice, they may laugh at mine."

CHURCHILL.

Had I sacrificed the rights of the church, and of the public that bestowed them on the church for the public good, I might have been a gainer, or rather not so great a loser in point of ease, health, substance, and popular fame. But I conceive that a son and servant of the church is called to exercise many other virtues and graces, many other acts of self-command and self-denial, many others of indulgence and charity to those around him, before he proceed to give up his individual property and the temporalities of the church, to a set of people who do not seem to " know themselves, or what manner of spirit they are of," and who, under a cloak of tender consciences and simplicity of manners, conceal a very high degree of pride and selfishness; of pride without dignity, and selfishness without disguise.

GEO. MARKHAM.

10th July, 1797.

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